order to pre-qualify, order, and maintain the loops required to provide DSL service. Without access to Qwest's pre-ordering systems, for example, we would not be able to tell whether a particular loop is qualified for DSL. And just like with UNE-P service as described above, WorldCom relies on Qwest to provide status-updates on our orders by returning timely and accurate order completion notices or rejects followed by provisioning completion notifications. Unfortunately, Qwest's line sharing performance falls short in a few key areas. In addition, contrary to its representations in this application, Qwest will not continue providing DSL service to customers who switch to a CLEC for UNE-P voice service when that customer's DSL provider is an ISP. Qwest's practice is anti-competitive because it deters customers from switching to a CLEC for voice service.

A. Qwest Does Not Provide All Pertinent Loop Qualification and Loop Make-up Information

WorldCom is not gaining access to all the relevant loop makeup information that is available in Qwest's network, similar to the experience recently described by Covad in this proceeding.[7] WorldCom agrees with Covad's statement that Qwest must prove to the Commission that all loop makeup information in its network is actually made available to competitors on a non-discriminatory basis.

When WorldCom queries Qwest's loop qualification database using Qwest's IMA/EDI loop make-up tool, we do not always receive all pertinent information. Nielson Decl. ¶ 3. For example, WorldCom may perform a query and find that fiber exists in the loop, in which case we are unable to provide DSL service to that customer. Yet, we are not told that a redundant copper facility over which we could provide that customer DSL service is available. Id. Although Qwest suggests that it has populated its database to include spare copper facilities, it has not been WorldCom's experience that this type of information is actually available. Id. WorldCom thus has had to unnecessarily reject customers' orders for DSL service simply because we have not been provided all relevant loop qualification information. Id. In all likelihood, Qwest itself has access to this important information. Qwest must improve its loop qualification processes and data-base loop information before gaining section 271 authorization.

B. Qwest Improperly Issues a SOC Before Completing the DSL Order

WorldCom has experienced problems in Colorado with the accuracy of Qwest's Service Order Completions (SOC) for its DSL line sharing orders. Nielson Decl. ¶ 4. For example, WorldCom received a SOC for certain DSL line sharing orders, but then a customer complaint revealed that Qwest had not yet completed the order. Id. Discussions with the Qwest central office technician handling the orders revealed that SOCs may be transmitted electronically to a CLEC regardless of whether work actually has been completed. Id. Prematurely issuing SOCs creates customer-impacting issues for WorldCom because WorldCom has been led to believe – and informed its customers accordingly -- that service will be turned up on a certain date. Customers are dissatisfied with WorldCom when they do not receive service on the day promised. Qwest must correct this process.

C. Qwest Fails to Provide Accurate Channel Facility Assignment Information

WorldCom has discovered that Qwest's Channel Facility Assignment (CFA) inventory in a few of its central offices in Colorado is not accurate and requires updating.

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[7] *See* Ex Parte Letter to Marlene H. Dortch, FCC, from Jason D. Oxman, Covad, WC Docket No. 02-148,

CFAs are the connections between WorldCom's collocation site and the ILEC's network. Nielson Decl. ¶ 5. Qwest provides to WorldCom a list of available CFAs for each central office, so that WorldCom knows which CFAs it can use to offer service to end-users. Because Qwest has not provided WorldCom with accurate CFA information, orders are automatically rejected with the error message "Invalid CFA," even though we used the assignment that we were given by Qwest. Id. WorldCom must receive assurance that all central office wiring is accurate and that the appropriate information has been updated in Qwest's CFA inventory system in order to provision DSL to its customers.

WorldCom has been making requests to Qwest to update its systems, but in some cases it has taken up to 96 hours to receive updated and valid CFAs, during which time our orders are rejecting. Nielson Decl. ¶ 6. WorldCom has asked Qwest to re-certify certain central offices to ensure that it has completed all necessary work related to providing accurate CFAs. Id. In April of this year, 10 central offices in Colorado were re-certified, and of those 10, seven required that Qwest update its CFA system. Id. Of the seven requiring updating, five are still incorrect. Id. Until the CFAs in these central offices are accurate, WorldCom's DSL orders run the risk of being rejected. Qwest must correct this problem.

D. Qwest Does Not Provide DSL Service to Many CLEC-Voice Customers

WorldCom would like to set the record straight on whether Qwest continues providing DSL service to a customer who has selected a CLEC for UNE-P voice service. Qwest states in its application that "Qwest has agreed to offer its retail DSL service on a stand-alone basis when a CLEC provides the voice service over UNE-P." Stewart Decl. ¶ 67. Indeed, in the Arizona SGAT proceeding, Qwest agreed on a 14-state basis to allow

filed June 20, 2002.

CLEC UNE-P voice customers to continue to use Qwest's DSL service. Parties chose not to litigate this issue in many of the states based on Qwest entering into this agreement. Now, however, Qwest is backing out of its agreement in cases where the DSL customer uses an ISP. Many of Qwest's DSL customers have been transferred to an ISP under Qwest's "Host Volume Discount Program" that offers volume discounts to ISPs.[8] In fact, Qwest transferred a significant portion of its DSL customers to the ISP Microsoft Network (MSN). Customers of the ISPs cannot obtain UNE-P voice service from WorldCom or any other CLEC, unless the CLEC successfully advises the customers to contact their ISP and have their ISP service disconnected and reconnected to a new ISP.[9] Understandably, customers generally will not want to endure this hassle. Qwest's anti-competitive practice is especially harmful to WorldCom, as we enter the local market with our Neighborhood voice product and must have a way of providing customers DSL. Potential customers are turned away by Qwest's anti-competitive business practices.

III. QWEST SHOULD REDUCE ITS UNE RATES

Qwest must make two corrections to its pricing methodology before gaining section 271 authorization. Until then, Qwest has failed to meet checklist item number

[8] Qwest stated the following in a written response to WorldCom about whether Qwest would continue providing DSL service to CLEC-UNE-P voice customers: "Qwest DSL Host Volume Discount Program arrangements (providing Qwest DSL service to end-users on behalf of Volume Internet Service Providers (VISP)) are not available with UNE-P with Qwest DSL." Qwest further stated that "[I]f the line has VISP DSL, and a CLEC is requesting a UNE-P conversion, Qwest will advise the CLEC that they must go back to the End User and advise them that they must contact their data service provider (ISP) to disconnect their existing DSL service. The VISP DSL line must be disconnected prior to an UNE-P order being issued to convert a line to UNE-P or add another Qwest retail DSL service. Qwest will not accept a VSIP disconnect order from the End User...Qwest VISP DSL is not available with UNE-P services."

[9] Qwest stated the following in written responses to WorldCom questions about whether Qwest would continue providing DSL service to CLEC-UNE-P voice customers: "Qwest DSL Host Volume Discount Program arrangements (providing Qwest DSL service to end-users on behalf of Volume Internet Service Providers (VISP)) are not available with UNE-P with Qwest DSL." Qwest further stated that "[I]f the line has VISP DSL, and a CLEC is requesting a UNE-P conversion, Qwest will advise the CLEC that they must go back to the End User and advise them that they must contact their data service provider (ISP) to disconnect their existing DSL service. The VISP DSL line must be disconnected prior to an UNE-P order

two, which requires that Qwest prove that it has made available unbundled network elements at just, reasonable, and non-discriminatory prices that are based on the costs of those elements.

First, the benchmarking methodology Qwest uses to support its recurring UNE rates in Idaho, Iowa, and North Dakota neglects to account for its sale of high-cost exchanges in these states. Frentrup Decl. ¶¶ 2, 6-8. Second, Qwest fails to accurately reflect the relative minutes of usage in each of the four states to which it benchmarks to Colorado. Frentrup Decl. ¶¶ 9-12. These two errors result in inflated UNE rates for each of these states - loop rates are overstated by 1 percent in Idaho, 3 percent in Iowa, and 9 percent in North Dakota, and switch usage rates are overstated by 35 percent in North Dakota and 20 percent in Nebraska.

A. Background

Qwest's recurring UNE rates were set in cost proceedings in each of the five states for which it is seeking approval under section 271 in this application. However, Qwest defends its application only on the rates set by the Colorado Public Utilities Commission. For the other states, Qwest is proposing rates that are below the rates set by the state commissions, based on a benchmark comparison with the Colorado rates.

To compute the benchmark for the loop rates in Idaho, Iowa, Nebraska, and North Dakota, Qwest multiplies the statewide average UNE loop rate adopted in Colorado by the ratio of Colorado loop costs to the state's loop cost, as those costs are determined by the Commission's Synthesis Model (SM).[10] Frentrup Decl. ¶ 4. To derive the rate for the

being issued to convert a line to UNE-P or add another Qwest retail DSL service. Qwest will not accept a VSIP disconnect order from the End User...Qwest VISP DSL is not available with UNE-P services."

[10] The SM was developed by the Commission to determine universal service costs. To determine UNE costs, modifications to the SM are needed to remove retail overheads, and to spread the remaining

different zones in the states, Qwest multiplies the ratio of this revised statewide average rate to the originally approved statewide average rate by the rates for the individual zones. Id.

Qwest performs a similar operation to derive a new switch usage rate. Frentrup Decl. ¶ 5. First, Qwest derives the ratio of each state's total non-loop costs to Colorado non-loop costs, as determined by the modified SM. Id. It then multiplies that ratio by the total non-loop rate for Colorado to determine each state's allowed total non-loop rate.[11] Id. If that rate exceeds the state's approved non-loop rates – and in every case it does – Qwest resets the shared transport rate to the Colorado rate, retains the state's port rate, and adjusts the switch usage rate so that the new rates in total equate to the allowed total non-loop rate. Id.

B. Qwest's Benchmark Methodology Fails to Account for Exchanges Sold in Idaho, Iowa, and North Dakota

Qwest's use of the adjusted SM for the purpose of computing the benchmark suffers from a serious flaw: it does not account for the fact that Qwest has sold a number of the exchanges that are included in the SM. Frentrup Decl. ¶¶ 2, 6-8. Since these exchanges are higher-cost exchanges in relatively rural areas, the adjusted SM produces overstated costs in those states where Qwest has sold its exchanges. Frentrup Decl. ¶ 6. In fact, of the five states for which Qwest seeks section 271 authorization, Qwest sold exchanges in three of them – Idaho, Iowa, and North Dakota. Id. Since none of the

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wholesale overhead costs among all elements. The SM as modified in this manner has previously been used by the Commission to perform its benchmark analysis.

[11] The total non-loop rate was computed as one port charge, plus the switch usage rate applied to a basket of 1200 originating and 1200 terminating local minutes and 370 combined state and interstate long distance minutes, plus the shared transport rate applied to that same basket of minutes. Qwest makes assumptions about how much of its local traffic is intraoffice, and how much of its traffic is tandem transport to determine the exact number of minutes to which its rates apply. These assumptions are given in detail in the Declarations of Jerrold L. Thompson included in Qwest's 271application.

exchanges in Colorado or Nebraska were sold, the Colorado and Nebraska SM costs are not misstated. Id. However, in Idaho, Iowa, and North Dakota, removal of high cost exchanges from the SM will reduce the resulting loop and non-loop costs in these states, reducing the UNE rates that are allowed under the benchmark methodology Qwest uses. Id.

Correctly reflecting the sale of exchanges in the SM would require rerunning the model with the sold exchanges and their attendant demand removed. Frentrup Decl. ¶ 7 WorldCom does not have access to the wire center demand level data used in the SM, but an approximation of the effect of the sale of these exchanges can be obtained by removing the sold wire centers from the results-files produced for the SM by the Commission.[12] This will provide only an approximation, however, because removing the sold exchanges will, at a minimum, result in a modified interoffice transport network, as those exchanges will no longer need to be included on the network. Id. In addition, there may be changes in the numbers of trunk ports needed, which would change the cost of switching. Thus, the adjustments WorldCom identifies here are likely to slightly understate the true effect on the benchmark analysis of these sold exchanges. Id.

WorldCom obtained the SM expense modules containing the results for these three states, adjusted them to obtain UNE rates, and zeroed-out the sold exchanges. Frentrup Dec. ¶ 8. These modifications lowered the benchmark for loop rates by 1 percent in Idaho, 3 percent in Iowa, and 9 percent in North Dakota. Id. Similarly, these modifications lowered the benchmark for total non-loop rates by 0.5 percent in Idaho, 2

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[12] The wire center demand was provided in the Universal Service proceeding under proprietary cover that prohibits use of the data for any other purpose. The SM results files are available at http://www.fcc.gov/wcb/tapd/hcpm.

percent in Iowa, and 13 percent in North Dakota. Id. Thus, the rates set by Qwest for these three states using its benchmark analysis are overstated by at least these percentages.

C. Qwest's Assumed Benchmark Demand Levels are Inconsistent with Commission Decisions

Qwest assumes the same level of minutes in each of the five states under review to compute a monthly per line non-loop charge.[13] To be consistent with the Commission's previous benchmark analyses, it should use state-specific levels instead.

The computation of a non-loop benchmark requires the combination of several rate elements that have different demand units. Frentrup Decl. ¶ 9. In its computation of an overall non-loop rate, Qwest includes a per-line per-month port charge, a per-minute switch usage charge, and a per-minute shared transport rate, that is itself a combination of a tandem switch charge and a transport charge. Id.

Use of a constant set of demand in all states is inconsistent with the methodology used by the Commission in prior benchmark analyses. Frentrup Decl. ¶10. For example, in its most recent 271 decision, the Commission used state specific demand data in New York and New Jersey to perform its benchmark analysis.[14] Id. Qwest should do so here, rather than using the same demand levels across all five states. The Commission

[13] Specifically, Qwest assumes 1200 originating and terminating local minutes, and 370 toll and access minutes. Twenty five percent of local minutes are assumed to be intraoffice, and 20 percent of toll minutes are assumed to be tandem routed.

[14] *See* Application by Verizon New Jersey Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in New Jersey, WC Docket No. 02-67, Memorandum Opinion & Order, FCC 02-189, rel'd. June 24, 2002 at ¶ 53.

acknowledged that standardized demand assumptions might be reasonable in some cases, such as in the absence of state-specific demand data, but that is not the case here.[15]

Indeed, state-specific demand data are available for all five states in this application. Frentrup Decl. ¶ 11. Data on dial equipment minutes (DEM) are available from the ARMIS 43-04 report. Id. Data on retail switched access lines are available in the ARMIS 43-08 report. Id. And in its section 271 application, Qwest provides the number of resale, UNE-platform and unbundled loop lines it provides to resellers in each of the five states.[16] Id. These data are presented in Table 1, attached to the Frentrup pricing declaration. Frentrup Decl., Table 1.

As seen in Table 1, the minutes of use per-line varies substantially across these five states, with Colorado having relatively low minutes. North Dakota and Nebraska have substantially higher minutes per-line. Substituting these state specific minutes per-line in Qwest's computation of the benchmark rates results in an 11 percent reduction in the switch usage rate for North Dakota and a 30 percent reduction in Nebraska. Frentrup Decl. ¶ 12. These changes are in addition to the reductions that would occur from the removal of the effect of sold exchanges discussed above.

D. Qwest's UNE Rates Cause a Price Squeeze

The errors that Qwest makes in setting its UNE rates, described above, contribute to a price squeeze that prevents statewide residential competition in all five states.

[15] Id.

[16] *See* Qwest Brief at 19. There is a slight mismatch in the time periods for these two sets of data. The DEM data are reported for calendar 2001. The switched access line data in ARMIS 43-08 are reported as of year-end. To correct for this mismatch, the line data used in this analysis employs an average of the data reported for year-end 2000 and 2001. However, the CLEC line data reported by Qwest in its brief are line counts as of March 31, 2002. Since lines are likely to have grown over time, this would imply that the minutes of use per line are probably slightly understated. However, this understatement will alter the

WorldCom is able to offer our premium-priced Neighborhood product in only certain parts of Colorado, Iowa, and North Dakota. For now, a price squeeze prevents wider entry.

As shown in Exhibit 1, we perform a price squeeze analysis by subtracting the costs of leasing UNEs from the monthly revenue a carrier would receive if it provided a standard measured product, one feature at the same retail price Qwest charges, and the SLC. From that amount, i.e., the gross margin, a carrier must then cover its own internal costs. The statewide gross margin is $4.54 in Colorado, $0.75 in Idaho, $1.45 in Iowa, $7.66 in Nebraska, and $7.44 in North Dakota. None of these margins are sufficient to cover a CLEC's cost in leasing the elements and its own internal costs. As WorldCom has explained previously, internal costs typically include customer service costs, costs associated with customers who don't pay their bills, billing and collections, overhead, marketing costs, and other operational costs, and exceed $10 per line per month, even apart from significant up-front development costs.[17]

In terms of the gross margin in each of the zones in each of the five states, Exhibit 1 shows that CLECs would experience a *negative* gross margin in zone 3 in all five states, the worst being a shocking gross margin of *negative $36.76* in Nebraska and the best being *negative $9.05* in Iowa. There is also a negative gross margin in zone 2 in two of the states (Idaho and Nebraska) and barely a positive gross margin of $0.07 in zone 2 in North Dakota. Furthermore, the gross margin is less than $10 in zone 1 in Iowa and Idaho, making it impossible for WorldCom to profitably provide residential UNE-P

analysis presented here only to the extent that the CLEC lines were growing at a different rate in the individual states.

service to the mass market in these zones. Although Qwest improved its UNE rates in many respects, the fact is that there remains a statewide average price squeeze in each of the five states for Qwest has sought section 271 authorization and in many of the key zones in each of the states. Qwest's section 271 application should be denied on public interest grounds because of these price squeezes.

* * *

Recognizing that its rates in Idaho, Iowa, Nebraska, and North Dakota were well in excess of the Colorado rates, even after adjusting for cost differences among the states, Qwest has correctly lowered its rates in these states. However, the methodology Qwest used to lower its rates still results in excessive recurring rates and a price squeeze. The Commission should reject Qwest's 271 application until Qwest lowers its rates to reflect the sales of exchanges and the different demand characteristics of the states and to eliminate price squeezes.

IV. QWEST DOES NOT PROVIDE CUSTOMIZED ROUTING TO WORLDCOM

Qwest refuses to provide customized routing to WorldCom in the way WorldCom has requested and to which it is entitled under the Act and Commission precedent. Qwest therefore fails to meet checklist items 2 and 7 of section 271. Customized routing enables a requesting CLEC to designate the particular outgoing trunks associated with unbundled switching provided by the incumbent, which will carry certain classes of traffic originating from the CLEC's customers.[18] One use for customized routing is to carry calls from Qwest's switch to the CLEC's Operator Services and Directory

[17] *See, e.g.*, Huffman Decl. ¶¶ 8-12, attached to WorldCom Comments, *In re Application for Verizon New England for Authorization to Provide In-Region, InterLATA Services in Vermont*, CC Docket No. 02-7 (FCC filed Feb. 6, 2002).

Assistance ("OS/DA") platform in order to allow the CLEC to self-provision OS/DA services to its customers. WorldCom wants to self provision OS/DA services to its customers and has designated its existing Feature Group D trunks as the trunks over which it wants Qwest to route its customers' OS/DA calls. Qwest refuses to comply with WorldCom's request. Qwest maintains that WorldCom must purchase direct trunks dedicated to OS/DA traffic from each of Qwest's end offices to WorldCom's switches, rather than permitting WorldCom OS/DA traffic to travel over common transport to WorldCom's network.[19]

Qwest's refusal to provide customized routing violates the Act and Commission orders. Specifically, Qwest's conduct violates section 251(c)(3),[20] which requires ILECs to provide nondiscriminatory access to network elements, and sections 271(c)(2)(B)(ii), (vii), which requires successful section 271 applicants to provide access to UNEs pursuant to sections 251(c)(3) and 252(d)(1) and access to OS/DA services. Customized routing is part of the unbundled switching network element.[21] ILECs are not required to provide OS/DA as a UNE if they provide customized routing, pursuant to the UNE Remand Order.[22] Qwest does not provide OS/DA as a UNE and therefore must provide requesting carriers with customized routing.

The Commission specifies that requesting CLECs are entitled to designate the trunks on which the ILEC must route OS/DA traffic:

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[18] UNE Remand Order at para. 441, n. 867.

[19] *See* Exhibit 2, Declaration of Edward Caputo Regarding Checklist Item Two – Non Discriminatory Access to Network Elements.

[20] 47 U.S.C. § 153 et. seq.

[21] 47 C.F.R. § 51.319 (c)(1)(iii)(B) ("all features, functions and capabilities of the switch, which include but are not limited to: (B) All other features that the switch is capable of providing, including but not limited to, customer calling, customer local area signaling service features, and Centrex, as well as any technically feasible customized routing functions provided by the switch.")

[22] *See* UNE Remand Order ¶ 441.

> Customized routing permits requesting carriers to designate the particular outgoing trunks associated with unbundled switching provided by the incumbent, which will carry certain classes of traffic originating from the requesting provider's customers. This feature would allow the requesting carrier to specify that OS/DA traffic from its customers be routed over designated trunks which terminate at the requesting carrier's OS/DA platform or a third party's OS/DA platform. [23]

This definition of customized routing states that it is WorldCom, and not Qwest, that is entitled to designate the trunks on which Qwest will route WorldCom's OS/DA traffic. Qwest has no right to decide that WorldCom must establish separate trunks.

Moreover, the Commission recognized the ILECs' obligations to provide customized routing specifically over Feature Group D trunks in its review of a BellSouth Louisiana's section 271 application.[24] Because MCI did not demonstrate that it had actually requested this method of customized routing from BellSouth, the Commission found the record inconclusive. Nonetheless, the Commission concluded that, absent technical infeasibility, an ILEC's failure to provide customized routing using Feature Group D signaling violates the Act. The Commission stated:

> MCI raises a separate challenge to BellSouth's customized routing offering. MCI claims that BellSouth will not "translate" its customers' local operator services and directory assistance calls to Feature Group D signaling. As a result, MCI cannot offer its own operator services and directory assistance services to customers it serves using unbundled local switching. MCI, however, fails to demonstrate that it has requested Feature Group D signaling, and BellSouth claims that it has never received such a request. Thus, the record is inconclusive as to this objection. We believe, however, that MCI may have otherwise raised a legitimate concern. If a competing carrier requests Feature Group D signaling and it is technically feasible for the incumbent LEC to offer it, the incumbent LEC's failure to provide it would constitute a violation of section 251(c)(3) of the Act. Our rules require incumbent LECs, including BOCs, to make network modifications to the extent necessary to accommodate interconnection or access to network elements.[25]

[23] UNE Remand Order ¶ 441 n.867.
[24] Louisiana II Order ¶ 221.
[25] *Id.* ¶ 226.

Here, WorldCom has requested customized routing from Qwest through Feature Group D signaling. Qwest agrees that it is technically feasible.[26] The Commission has clearly stated that under these circumstances, Qwest must make network modifications necessary to accommodate WorldCom's customized routing request. Several state commissions agree.[27] Qwest's failure to do so constitutes a violation of section 251(c)(3) of the Act and checklist items 2 and 7 in section 271. Qwest should provide WorldCom with customized routing before gaining section 271 authorization.

[26] Qwest has not asserted that there is a technical impediment exists to providing customized routing over WorldCom's Feature Group D trunks.

[27] For example, an Administrative Law Judge in Minnesota concluded that WorldCom and others demonstrated that Qwest improperly did not accommodate technologies used for customized routing as required by the FCC, and therefore required Qwest to offer OS/DA as a UNE. *See In re a Commission Investigation into Qwest's Compliance with Section 271(C)(2)(B) of the Telecommunications Act of 1996; Checklist Items 3, 7, 8, 9, 10, and 12;* OAH Docket No. 12-2500-14485-2, PUC Docket No. P-421/C1-01-1370, State of Minnesota Office of Administrative Hearings for the Minnesota Public Utilities Commission, May 8, 2002.

CONCLUSION

Qwest's section 271 application for Colorado, Idaho, Iowa, Nebraska, and North Dakota should be denied, for the reasons described above.

Respectfully submitted,

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July 3, 2002

CERTIFICATE OF SERVICE

I, Lonzena Rogers, do hereby certify that on this third day of July, 2002, I have caused a copy of WorldCom, Inc.'s Comments in the matter of WC Docket No. 02-148 Application by Qwest Communications International, Inc. for Authorization Under Section 271 to Provide-In-Region InterLATA Service in the States of Colorado, Idaho, Iowa, Nebraska and North Dakota to be served by hand delivery and e-mail on the following:

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* Denotes Hand Delivery
** Denotes E-Mail Transmission